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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,135	07/18/2003	Volker Guemmer	2560-0412	1868
7590 11/15/2004			EXAMINER	
Klima & Jackson LLP Suite 920 4501 North Fairfax Drive Arlington, VA 22203			MCALEENAN, JAMES M	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,135	GUEMMER, VOLKER	
	Examiner	Art Unit	
	James M McAleenan	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/15/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example:

Claim 1, recites “ at least one rotor row and a free number of stator rows flown by a fluid”, as it written the claim describes the rotor and stator blades as flying? This certainly does not make any sense; the claims need to be written to conform to the English language, wherein Applicant’s claimed invention can be clearly and concisely understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by either Fukue (U.S. Patent Number 6,065,282) or Hoshino et al. (U.S. Patent Number 5,768,893). Fukue and Hoshino et al. disclose a fluid flow machine including a rotor row

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and a free number of stator rows flown by a fluid with one blade thereof positioned on throat confining surfaces provided with both a device for fluid removal from a flow path and a device for fluid supply into the flow path (see Figures 3-4 and Col. 5, lines 57-67 and Col. 6 of Fukue) (see Figure 3, 5-7 and Col. 3, lines 32-57 of Hoshino et al.). Fukue and Hoshino et al. disclose one line associated with the device for fluid removal for returning the removed fluid to an upstream position in the flow path and one further line associated with the device for fluid supply for supplying fluid from a further downstream position in the flow path (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Regarding claim 2, Fukue and Hoshino et al. disclose the device for fluid removal being provided on one blade of at least one stator and rotor row of blades and connects via one line to a device for fluid supply on at least one blade of at least one of a further rotor and stator row of blades (see Figures 3-4 and Col. 6, lines 23-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-37 of Hoshino et al.). Regarding claim 3, Fukue and Hoshino et al. disclose the device for fluid supply being provided on one blade of at least one stator and a rotor row of blades and is fed via at least one line from a device for fluid removal on one blade of one of a further rotor and stator row of blades (see Figures 3-4 and Col. 6, lines 15-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-55 of Hoshino et al.). Regarding claim 4, Fukue and Hoshino et al. disclose a restrictor positioned in at least one of the lines (see Figures 3-4 and Col. 6, lines 45-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 23-60 of Hoshino et al.). Regarding claim 5, Fukue and Hoshino et al. disclose at least one of the lines providing for free flow of the fluid. Regarding claim 6, Fukue and Hoshino et al. disclose the blade being provided with a device for the variable control of the fluid flow area for at least one

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of the fluid removal and supply, respectively (see Figures 3-4 and Col. 6, lines 30-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-52 of Hoshino et al.). Regarding claim 7, Fukue and Hoshino et al. disclose the line for returning the removed fluid being provided with a discharge chamber positioned at an inlet to the line (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.).

Regarding claim 8, Fukue and Hoshino et al. disclose the line for supplying the fluid being provided with a supply chamber at an outlet to the line. Regarding claim 9, Fukue and Hoshino et al. disclose the blade being a variable stator blade with a fluid supply channel and a fluid discharge channel being arranged within a spindle of the blade (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Fukue and Hoshino et al. disclose the two channels leading into an out of the flow path, respectively, to at least one of a machine casing and a rotor hub to provide for bi-functionality for the blade. Regarding claim 10, Fukue and Hoshino et al. disclose a restrictor positioned in at least one of the lines. Regarding claim 11, Fukue and Hoshino et al. disclose at least one of the lines providing for free flow of the fluid.

Regarding claim 12, Fukue and Hoshino et al. disclose the blade being provided with a device for the variable control of the fluid flow area for at least one of the fluid removal and supply, respectively (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Regarding claim 13, Fukue and Hoshino et al. disclose the line for returning the removed fluid that is provided with a discharge chamber positioned at an inlet to the line (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Regarding claim 14, Fukue and Hoshino et al. disclose the line for supplying the fluid being provided with a

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supply chamber at an outlet to the line. Regarding claim 15, Fukue and Hoshino et al. disclose a restrictor positioned in at least one of the lines. Regarding claim 16, Fukue and Hoshino et al. disclose at least one of the lines provided for free flow of the fluid. Regarding claim 17, Fukue and Hoshino et al. disclose the blade being provided with a device for the variable control of the fluid flow area for at least one of the fluid removal and supply, respectively. Regarding claim 18, Fukue and Hoshino et al. disclose the line for returning the removed fluid that is provided with a discharge chamber positioned at an inlet to the line. Regarding claim 19, Fukue and Hoshino et al. disclose the line for supplying the fluid being provided with a supply chamber at an outlet to the line. Regarding claim 20, Fukue and Hoshino et al. disclose the device for fluid supply is also provided on the blade with the device for fluid removal and is fed via at least one line from a device for fluid removal on at least one blade of at least one of a second further rotor and stator row of blades (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Regarding claim 21, Fukue and Hoshino et al. disclose a restrictor positioned in at least one of the lines. Regarding claim 22, Fukue and Hoshino et al. disclose one of the lines providing for free flow of the fluid. Regarding claim 23, Fukue and Hoshino et al. disclose the blade being provided with a device for the variable control of the fluid flow area for at least one of the fluid removal and supply, respectively. Regarding claim 24, Fukue and Hoshino et al. disclose the line for returning the removed fluid being provided with a discharge chamber positioned at an inlet to the line (see Figures 3-4 and Col. 6, lines 1-60 of Fukue) (see Figure 3, 5-7 and Col. 4, lines 1-60 of Hoshino et al.). Regarding claim 25, Fukue and Hoshino et al.

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disclose the line for supplying the fluid being provided with a supply chamber at an outlet to the line.

PRIOR ART

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

Bunker (U.S. Patent Number 5,611,197) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Huber et al. (U.S. Patent Number 5,782,076) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Marvin (U.S. Patent Number 5,305,599) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Griffiths (U.S. Patent Number 6,378,287) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Eveker et al. (U.S. Patent Number 6,582,183) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Feulner (U.S. Patent Number 6,574,965) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

Guimier et al. (U.S. Patent Number 5,468,123) is cited to show similar rotor fluid flow features as claimed by Applicant's invention.

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CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M McAleenan whose telephone number is 703-308-2827. The examiner can normally be reached on M-F 8:30-4:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on 703-308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M. McAleenan
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 10/15/09


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